

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MENG XIONG,

Plaintiff,

v.

JANE AND JOHN DOE, DANE COUNTY JAIL;
JANE AND JOHN DOE, COLUMBIA COUNTY JAIL;
JANE AND JOHN DOE, MARATHON COUNTY
JAIL; KALVIN BARRETT; CHAD BILLEB;
and ROGER L. BRANDNER,

Defendants.

ORDER

22-cv-348-jdp

Plaintiff Meng Xiong alleges that unidentified “John and Jane Doe” officials at the Marathon County and Dane County jails ignored his need to have prompt surgery to remove silicone oil from his eye, and against John and Jane Doe officials at the Columbia County Jail for failing to allow him to get a second opinion instead of sending him back to the medical group that botched his oil-removal surgery. I granted Xiong leave to proceed on Fourteenth Amendment claims against these defendants. Dkt. 16. Because the John and Jane Doe defendants could not be served with the complaint, I directed the clerk of court to add Dane County Sheriff Calvin Barrett, Marathon County Sheriff Chad Billeb, and Columbia County Sheriff Roger L. Brandner as nominal defendants for the purpose of serving the complaint and identifying the Doe defendants. Those nominal defendants filed answers. Dkt. 27 (Brandner’s) and Dkt. 29 (Barrett and Billeb’s). Xiong moves to strike those answers. Dkt. 28 and Dkt. 30. I will deny those motions.

Xiong contends that the answers violate this court’s orders because these nominal defendants are present in the case only to assist Xiong in identifying the John and Jane Doe

defendants through discovery, and that various affirmative defenses that they raise are improperly pleaded. In his reply, Xiong withdraws his request to strike the answers in their entirety but continues to request that their affirmative answers be struck. But motions to strike are disfavored; they delay proceedings, usually unnecessarily. *See Heller Fin., Inc. v. Midwhey Powder Co., Inc.*, 883 F.2d 1286, 1294 (7th Cir. 1989). There simply isn't any prejudice to Xiong from the nominal defendants having filed answers. All the parties appear to agree that once the John and Jane Doe defendants are identified, they will be required to file answers of their own, and the nominal defendants will be dismissed. At that point Xiong may consider challenges to the answers, and defendants should be mindful of the pleading requirements for their affirmative defenses. But for now there is nothing to be gained by considering dismissal of the nominal defendants' defenses.

ORDER

IT IS ORDERED that plaintiff Meng Xiong's motions to strike, Dkt. 28 and Dkt. 30, are DENIED.

Entered June 27, 2025.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge